

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Resource Management Act 1991

AND of an appeal under Clause 29(6) of the First
Schedule of the Resource Management Act
1991

BETWEEN BALMORAL DEVELOPMENTS
(OUTRAM) LIMITED

(ENV-2013-CHC-84)

Appellant

AND DUNEDIN CITY COUNCIL

Respondent

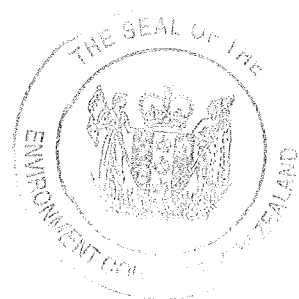
Environment Judge J R Jackson sitting alone pursuant to section 279 of the Act
In Chambers at Christchurch

CONSENT ORDER

[A] Under section 279(1)(b) of the Resource Management Act 1991, the Environment
Court, by consent, orders that:

- (1) the appeal is allowed to the extent that the Dunedin City Council is
directed to amend the Dunedin District Plan by making the following
changes (as set out in Annexures A-D, attached to and forming part of this
order):

- (a) Inserting a structure plan for Holyhead Street, Outram as Appendix
8.7 (see **Annexure A**);



- (b) Amending the zone maps Map 7 (zones) (see **Annexure B**), Map 67 (noise) (see **Annexure C**) and Map 75 (high class soils) (see **Annexure D**) to include the southern part of the site in the residential 5 zone;
- (c) Amending rule 8.11.1 to restrict residential units to one per lot (see **Annexure A**); and
- (d) Amending rule 18.5.12 to refer to the new Holyhead Street, Outram structure plan are made (see **Annexure A**).

(2) the appeal is otherwise dismissed.

[B] Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] On 12 July 2013 Balmoral Developments (Outram) Limited lodged an appeal against a decision of the Dunedin City Council to decline its Private Plan Change 14 – Holyhead Street, Outram. The request was to rezone 6.7361ha of rural land to residential 6 with a plan for subdivision, roads and stormwater ponding.

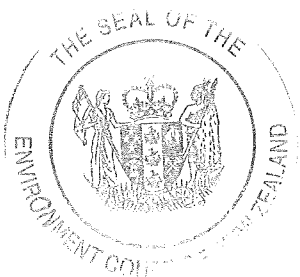
[2] The court has now read and considered the consent memorandum of the parties dated 20 January 2015, which proposes to resolve the appeal.

Other relevant matters

[1] Craig Werner gave notice of his intention to become a party to the appeal under Section 274 of the Resource Management Act 1991. Mr Werner subsequently withdrew his section 274 notice on 16 May 2014.

Orders

[2] The court is making this order under section 279(1)(b) of the RMA, that is the order is made by consent and is not a decision or determination on the merits pursuant to section 290. The court understands for present purposes that:



- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction, and achieves the relevant requirements and the purpose of the RMA including, in particular, Part 2.

DATED at Christchurch 21 January 2015



J R Jackson

Environment Judge

Issued¹

21 JAN 2015



¹ ENV-2013-CHC-84 Balmoral Consent Order

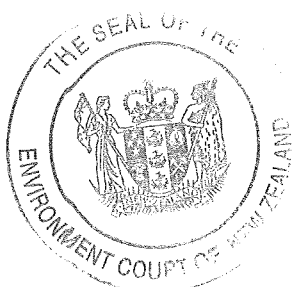
8 Residential

8.11 Residential 5 Zone - Rules

Rule 8.11.1 Permitted Activities

The following activities are permitted activities provided that they comply with the conditions in Rule 8.11.2 of the Residential 5 Zone:

- (i) Residential Activity at a density of not less than 1000 m² of site area per residential unit except:
 - (a) that a single residential unit may be erected on any existing residential site in Aramoana.
 - (b) Formby Street Structure Plan area (Appendix 8.6), only one residential unit may be established on each of Lots 1-28. *[Amended by Plan Change 16, 1/09/2014]*
 - (c) at Holyhead Street, Outram Residential 5 Zone, as shown on the Holyhead Street, Outram, Structure Plan in Appendix 8.7, there can only be one residential unit on each of Lots 1-26. *[Amended by Plan Change 14,]*
- (ii) Recreational Activity provided that associated structures do not exceed 25 m² in floor area.
- (iii) Accessory buildings for permitted activities excluding structures for recreational activities in excess of 25 m². *[Amended by Variation 6: 18/10/00]*
- (iv) Signs permitted in this zone are specified in the Signs Section.

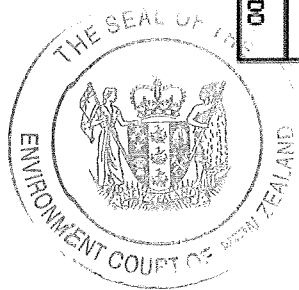
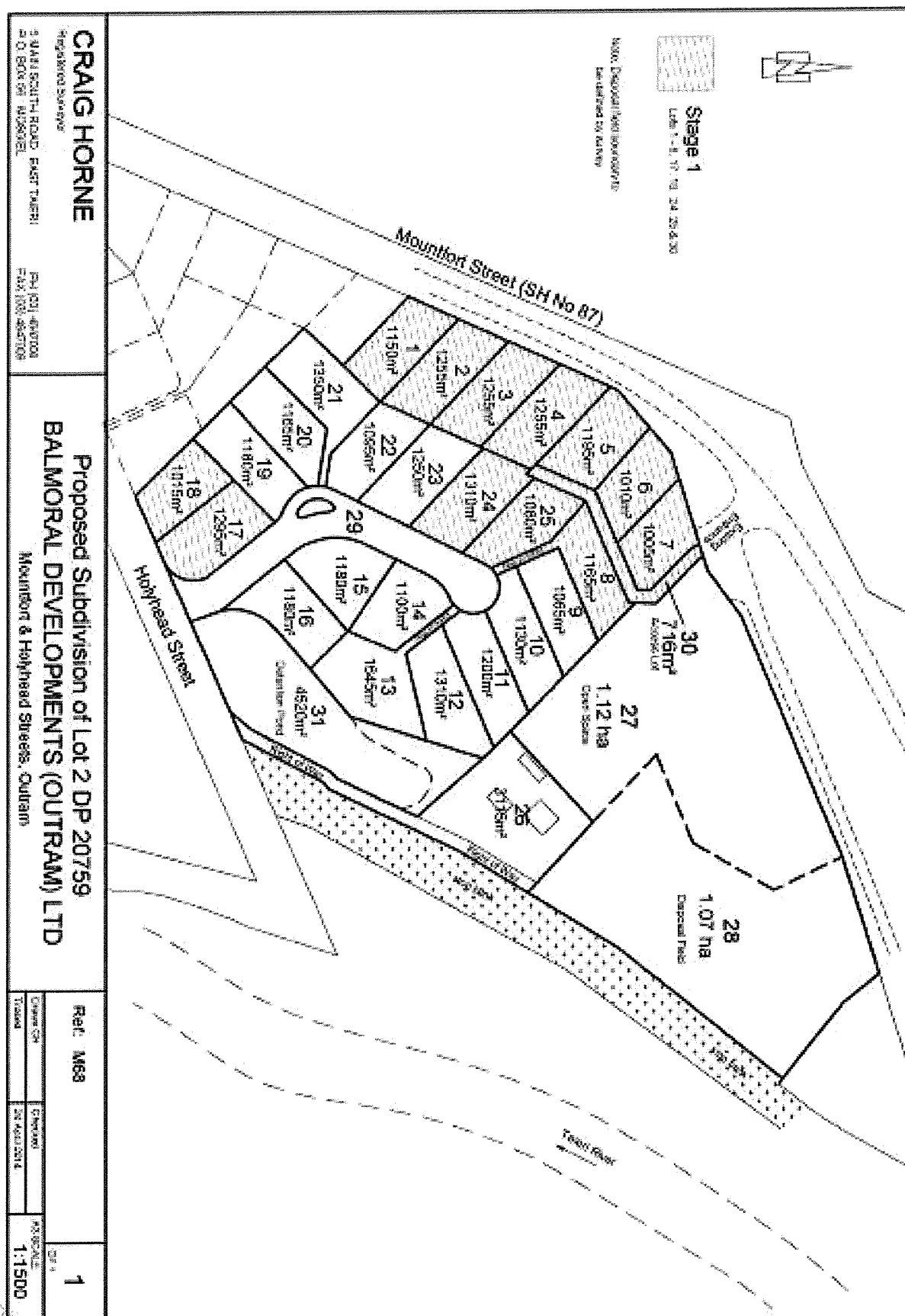


Appendix 8.7

Holyhead Street, Outram, Structure Plan

1. The subdivision of the Holyhead Street, Outram, Structure Plan Area may be staged, with the first stage comprising some or all of Lots 1-8 (inclusive), 17, 18, 24, 25 and 30 as shown on the Holyhead Street, Outram, Structure Plan.
2. Vehicular access to the proposed lots will be as follows:
 - a. Lots 1-4 from Mountfort Street (State Highway 87).
 - b. Lots 5-7 from Mountfort Street (State Highway 87) via access Lot 30.
 - c. Lots 8, 24 and 25 initially from Mountfort Street (State Highway 87) via access Lot 30, but from Holyhead Street via Lot 29 once Lot 29 is formed.
 - d. All other Lots via Holyhead Street directly, or Holyhead Street via Lot 29.
3. Lot 29 must be formed as an access road either once all of Lots 1-8 (inclusive), 24 and 25 have residential development established on them, or before any residential development is established on any of Lots 9-16 (inclusive) or any of Lots 19-23 (inclusive).
4. Subdivision in compliance with Clauses 1-3 of the Holyhead Street, Outram, Structure Plan is a Restricted Discretionary activity and will not be notified.
5. Failure to meet any of the requirements of Clauses 1-3 of the Holyhead Street, Outram, Structure Plan will result in the subdivision being a non-complying activity.



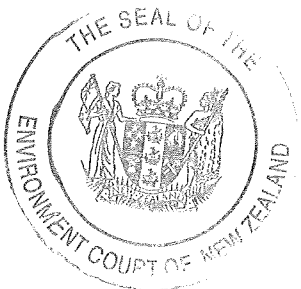


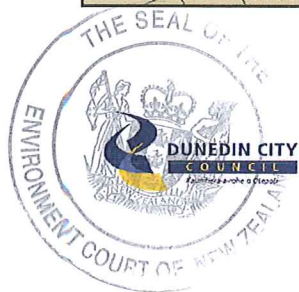
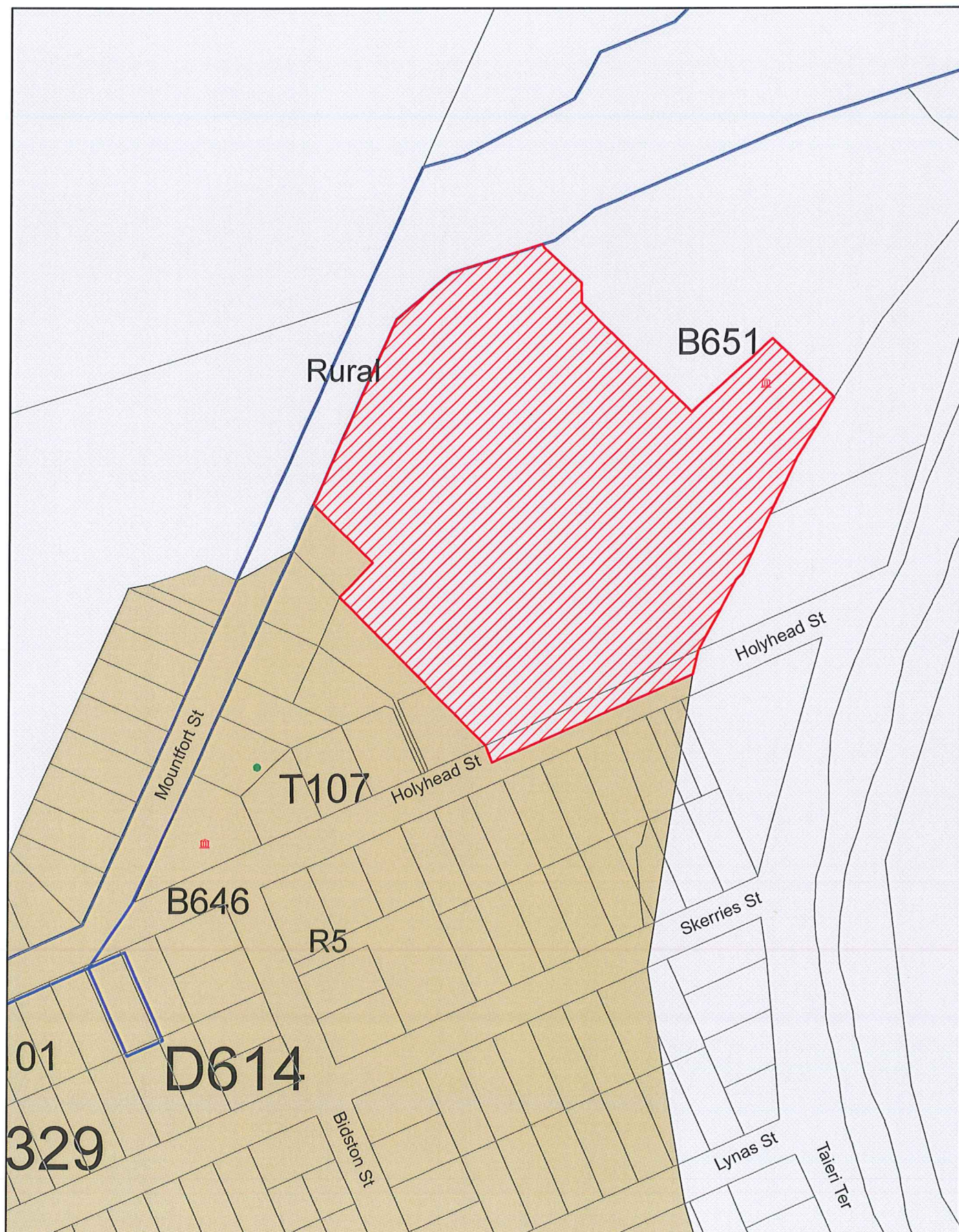
18 Subdivision Activity

Rule 18.5.12 Structure Plans

Subdivision of land subject to a structure plan shall be in accordance with the relevant Structure Plan as follows:

- (a) Mosgiel East – Appendix 8.2
- (b) Abbotsford – Appendix 8.3 *[Amended by Plan Change 4, 3/03/08]*
[Inserted by C17/2008, 12/02/08]
- (c) East Taieri Structure Plan Area – Appendix 8.5
- (d) Harbourside – Appendix 26.1 *[Inserted by Plan Change 7, 29/05/2012]*
- (e) Formby Street Structure Plan – Appendix 8.6 *[Inserted by Plan Change 16, 01/09/2014]*
- (f) Holyhead Street, Outram, Structure Plan – Appendix 8.7 *[Inserted by Plan Change 14]*

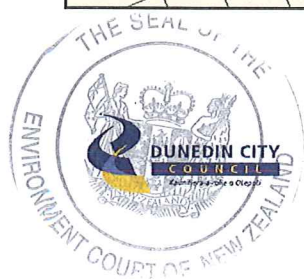




Map7 – Change as a result of Private Plan Change 14


Legend

 Proposed Zone Change into R5





Map67 – Change as a result of
Private Plan Change 14


Legend


 Proposed Zone Change into R5


DP Noise

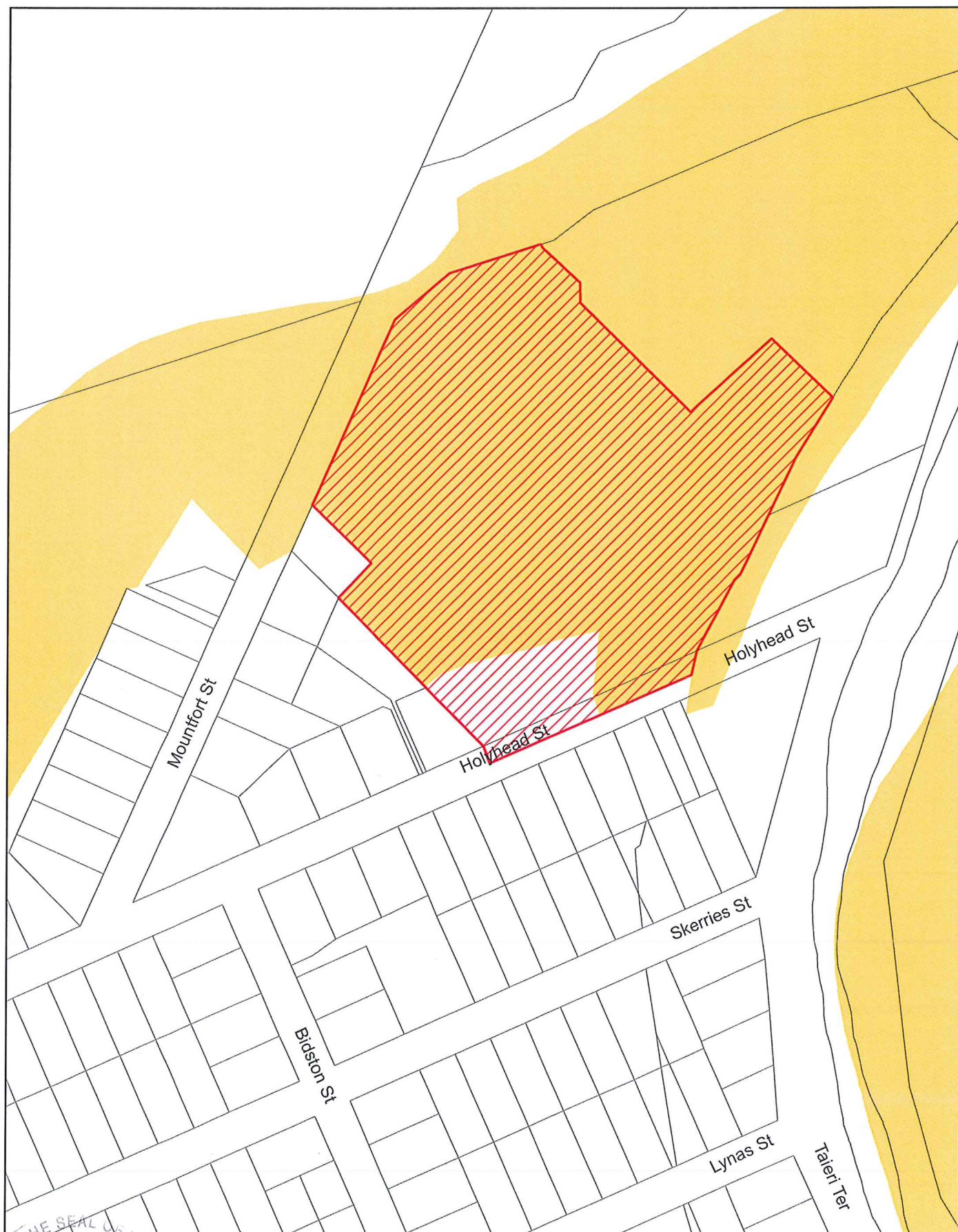
 60Dt/1Nt dBA

 55Dt/40Nt dBA

 50Dt/40Nt dBA, 45SP dBA



 50Dt/35Nt dBA, 45SP dBA

 55 Dt/40Nt dBA within 50m of a residence



Map75 – Change as a result of
Private Plan Change 14

Legend

-  Proposed Zone Change into R5
-  DP High Class Soils